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FILED
STATE OF CALIFORNIA
PHYSICAL THERAPY BOARD OF CALIFORNIA
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BY [Signature] ANALYST

7
8 **BEFORE THE**
PHYSICAL THERAPY BOARD OF CALIFORNIA
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Board Case No. 1D 2009 67601

11 **REYNA OLIVER**

12 **245 Montecito Avenue, Apt 303**
13 **Oakland, CA 94610**

A C C U S A T I O N

14 **Physical Therapist License No. PT 35204**

15 Respondent.
16

17
18 Complainant alleges:

19 **PARTIES**

20 1. Jason Kaiser (Complainant) brings this Accusation solely in his official capacity as
21 the Interim Executive Officer of the Physical Therapy Board of California, Department of
22 Consumer Affairs.

23 2. On December 20, 2008, the Physical Therapy Board of California issued Physical
24 Therapist License Number PT 35204 to Reyna Oliver (Respondent). The Physical Therapist
25 license was in full force and effect at all times relevant to the charges brought herein and will
26 expire on February 28, 2014, unless renewed.
27
28

JURISDICTION

3. This Accusation is brought before the Physical Therapy Board of California (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2609 of the Code states:

"The board shall issue, suspend, and revoke licenses and approvals to practice physical therapy as provided in this chapter."

5. Section 2660 of the Code states:

"The board may, after the conduct of appropriate proceedings under the Administrative Procedure Act, suspend for not more than 12 months, or revoke, or impose probationary conditions upon any license, certificate, or approval issued under this chapter for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:

"(g) Gross negligence in his or her practice as a physical therapist or physical therapist assistant.

"(h) Conviction of a violation of any of the provisions of this chapter or of the Medical Practice Act, or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter or of the Medical Practice Act.

"(k) The commission of any fraudulent, dishonest, or corrupt act that is substantially related to the qualifications, functions, or duties of a physical therapist or physical therapist assistant."

6. Section 2620.7 of the Code states:

"(a) A physical therapist shall document his or her evaluation, goals, treatment plan, and summary of treatment in the patient record.

"(b) A physical therapist shall document the care actually provided to a patient in the patient record.

7. Section 1399.85 of Title 16 of the California Code of Regulations states:¹

¹ Title 16 of the California Code of Regulations section 1399.85 has since been renumbered to section 1398.13.

1 "A physical therapist shall document in the patient record the following:

2 (1) Examination and re-examination

3 (2) Evaluation, when the patient is to be reevaluated and the reevaluation

4 (3) Diagnosis

5 (4) Prognosis and intervention

6 (5) Treatment plan and modification of the plan of care

7 (6) Each treatment provided

8 (7) Discharge Summary

9 Each entry shall be dated and signed by the treating physical therapist. Adjacent to the
10 treating physical therapist's signature or at least on every page if there are multiple entries on a
11 single page shall be the printed or stamped name of the treating physical therapist."

12 COST RECOVERY

13 8. Section 2661.5 of the Code states:

14 "(a) In any order issued in resolution of a disciplinary proceeding before the board, the
15 board may request the administrative law judge to direct any licensee found guilty of
16 unprofessional conduct to pay to the board a sum not to exceed the actual and reasonable costs of
17 the investigation and prosecution of the case.

18 "(b) The costs to be assessed shall be fixed by the administrative law judge and shall not in
19 any event be increased by the board. When the board does not adopt a proposed decision and
20 remands the case to an administrative law judge, the administrative law judge shall not increase
21 the amount of the assessed costs specified in the proposed decision.

22 "(c) When the payment directed in an order for payment of costs is not made by the
23 licensee, the board may enforce the order of payment by bringing an action in any appropriate
24 court. This right of enforcement shall be in addition to any other rights the board may have as to
25 any licensee directed to pay costs.

26 "(d) In any judicial action for the recovery of costs, proof of the board's decision shall be
27 conclusive proof of the validity of the order of payment and the terms for payment.
28

1 "(e) (1) Except as provided in paragraph (2), the board shall not renew or reinstate the
2 license or approval of any person who has failed to pay all of the costs ordered under this section.

3 "(2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or
4 reinstate for a maximum of one year the license or approval of any person who demonstrates
5 financial hardship and who enters into a formal agreement with the board to reimburse the board
6 within that one year period for those unpaid costs.

7 "(f) All costs recovered under this section shall be deposited in the Physical Therapy Fund
8 as a reimbursement in either the fiscal year in which the costs are actually recovered or the
9 previous fiscal year, as the board may direct."

10 FACTUAL BASIS

11 9. In May 2009, Patient S. J.² was diagnosed with cervical facet joint pain, and his
12 treating physician, Dr. Yung Chen, prescribed physical therapy. At office visits on June 22 and
13 30 of 2009, as well as July 2, 7, 9, 14, 21, and 23 of 2009, Respondent provided physical therapy
14 to Patient S.J for treatment of chronic back pain at Aero Physical Therapy and Sports Medicine
15 (APTSM) in Millbrae, California.

16 10. On June 22, 2009, Respondent had an initial evaluation with S.J. and documented a
17 treatment plan, which included the following treatments: therapeutic exercises, joint
18 mobilizations/manual therapy, soft tissue mobilizations/manual therapy, neuromuscular re-
19 education, home exercise program, hot/cold pack, and Inferential Current (IFC) treatments.
20 During IFC treatment, an electrode contained in an adhesive pad is placed on the appropriate area
21 of the patient's body to receive treatment. Correctly applied, IFC does not cause burns or other
22 injuries. IFC may cause burns and abrasions if the physical therapist does not ensure adequate
23 contact between the skin and the electrode. Adequate contact may be obtained by cleaning the
24 patient's skin with either rubbing alcohol or soap and water and clipping or shaving hair to allow
25 the electrode to adhere to the area.

26
27 ² Patient initials are used herein to maintain patient confidentiality. The patient's full
28 name will be provided pursuant to a Request for Discovery.

1 11. On June 30, 2009, July 2, 2009, and July 7, 2009, Respondent treated S.J. with
2 exercise, soft tissue mobilization, joint mobilization, manual cervical traction, heat, and IFC to
3 the cervical spine. When administering IFC treatments on these days, Respondent or
4 Respondent's physical therapy assistant or aide affixed the electrode pads to Patient S.J.'s back,
5 which contained significant hair, without first ensuring hair removal.

6 12. On July 9, 2009, Respondent reevaluated S.J.'s cervical spine range of motion.
7 Respondent then treated S.J. with exercise, soft tissue mobilization, joint mobilization, manual
8 cervical traction, heat, and IFC to the cervical spine. Respondent's chart indicates that prior to
9 administering the IFC treatment she noticed "patient with small bump on left neck (post) and red
10 scab on post shoulder, possibly from IFC." Respondent made no mention in Patient S.J.'s chart
11 of his body hair as a contributing factor for the abrasions. Respondent continued to administer
12 IFC treatment despite the abrasions on S.J.'s back by reapplying the IFC pads away from the
13 abrasions, but without first performing hair removal to eliminate the risk of additional burns.

14 13. On July 14, 2009, Respondent treated S.J. with exercise, soft tissue mobilization, joint
15 mobilization, manual cervical traction, and heat to the cervical spine. Respondent discontinued
16 IFC as a part of S.J.'s treatment until his abrasions healed. Respondent instructed S.J. to bring in
17 a razor to shave the hair on his back.

18 14. On July 21, 2009 and July 23, 2009, Respondent treated S.J. with exercise, soft tissue
19 mobilization, joint mobilization, manual cervical traction, and heat to the cervical spine.
20 Respondent's July 21, 2009 chart indicates that S.J. still had four small wounds that were "most
21 likely" caused by the IFC treatment. Respondent refrained from administering the IFC treatment
22 on these days.

23 15. After July 23, 2009, but before February 22, 2010, Patient S.J. requested a non-
24 certified copy of his medical records from APTSM. On February 22, 2010, S.J. forwarded this
25 non-certified copy of his medical records to the Board for review.

26 16. On March 17, 2010, Patient S.J. executed an Authorization for Release of Patient
27 Health Information, permitting the Board to request that Respondent furnish a certified copy of
28 S.J.'s medical records.

17. On April 14, 2010, Respondent answered a request from the Board for a certified copy of S.J.'s complete medical record. When answering the request, Respondent provided a copy of S.J.'s medical record, and certified under penalty of perjury that the foregoing is true and correct. However, Respondent had altered the certified copy before forwarding it to the Board.

18. On December 8, 2010, Board Investigator Paul M. Rowe interviewed Respondent. When Investigator Rowe questioned Respondent about the discrepancies between the non-certified and certified copies of S.J.'s medical records, Respondent said that after she received notice of the complaint against her, she realized that Patient S.J. had complained about the burns he received during the IFC treatments she administered. She then altered her notes to include, among other additions, discussions she had with S.J. about the burns, the hair on his back, and the necessity for hair removal on records for June 22 and 30 of 2009, as well as July 2, 7, 9, 14, 21, and 23 of 2009.

19. During the December 8, 2010 interview, Investigator Rowe also questioned Respondent as to whether she had been the one to place the IFC pads on S.J.'s back during treatments. Respondent stated that "another staff member normally assists [patients] with the treatment," while Respondent was "already working with another patient." The records for each treatment Respondent administered to Patient S.J. on June 22 and 30 of 2009, as well as July 2, 7, 9, 14, 21, and 23 of 2009 are written and signed exclusively by Respondent. None of the records reference Respondent's use of a physical therapy assistant or aide. None of the records are signed by any other physical therapist, nor physical therapist assistant or physical therapy aide who may have performed tasks under Respondent's supervision.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

20. Paragraphs 9 through 18 are incorporated herein.

21. Respondent's license is subject to discipline for violating Code section 2660 [unprofessional conduct], in that Respondent placed IFC electrode pads on Patient S.J.'s back without first instituting hair removal measures when hair limited contact of the electrodes and created a burn risk. Respondent then reapplied IFC electrode pads on Patient S.J.'s back after

1 recognizing and acknowledging skin irritations caused by hair without first correcting the
2 underlying problem by instituting hair removal, or otherwise failed to properly oversee and assure
3 documentation of treatments performed by any physical therapy aide or assistant. Finally,
4 Respondent altered clinical records. Each of the aforementioned acts constitute inappropriate or
5 unsafe physical therapy practices and/or violations of Code sections 2660(g), (h), and (k), as well
6 as 2620.7(a) and (b) and California Code Regulations (CCR) section 1399.85. As such,
7 Respondent's license is subject to disciplinary action under Code section 2660 [unprofessional
8 conduct].

9 SECOND CAUSE FOR DISCIPLINE

10 (Gross Negligence)

11 22. Paragraphs 9 through 18 are incorporated herein.

12 23. Respondent's license is subject to discipline for violating Code section 2660(g) [gross
13 negligence], in that Respondent placed IFC electrode pads on Patient S.J.'s back without first
14 instituting hair removal measures when hair limited contact of the electrodes and created a burn
15 risk. Respondent reapplied IFC electrode pads on Patient S.J.'s back after recognizing and
16 acknowledging skin irritations caused by hair without first correcting the underlying problem by
17 instituting hair removal, or otherwise failed to properly oversee and document treatments
18 performed by any physical therapy aide or assistant. Moreover, Respondent altered clinical
19 records. Each of Respondent's acts constitute an extreme departure from the standard of care that
20 subjects Respondent's license to disciplinary action under Code section 2660(g) [gross
21 negligence].

22 THIRD CAUSE FOR DISCIPLINE

23 (Dishonest Act)

24 24. Paragraphs 9 through 18 are incorporated herein.

25 25. Respondent's license is subject to discipline for violating Code section 2660(k)
26 [dishonest act], in that Respondent knowingly altered Patient S.J.'s medical records and submitted
27 them as certified copies under penalty of perjury.

28 FOURTH CAUSE FOR DISCIPLINE

(Failure to chart)

26. Paragraphs 9 through 18 are incorporated herein.

27. Respondent's license is subject to discipline for violating Code sections 2660(h), 2620.7(a) and (b), and CCR section 1398.13 [failure to chart], in that Respondent failed to chart the use of physical therapy assistants or aides in any treatment of Patient S.J, as well as various treatments and patient counseling sessions in entries dated June 22 and 30 of 2009 as well as July 2, 7, 9, 14, 21, and 23 of 2009.

PRAYER

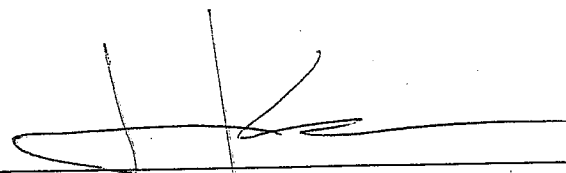
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Physical Therapy Board of California issue a decision:

1. Revoking or suspending Physical Therapist Number PT 35204, issued to Reyna Oliver;

2. Ordering Reyna Oliver to pay the Physical Therapy Board of California the reasonable costs of the investigation and enforcement of this case, and probation monitoring costs, if placed on probation;

3. Taking such other and further action as deemed necessary and proper.

DATED: March 17, 2013


JASON KAISER
Interim Executive Officer
Physical Therapy Board of California
Department of Consumer Affairs
State of California
Complainant

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